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In re Application of:	:	
Salamone et al.	:	
Application No.: 09/890,536	:	DECISION
PCT No.: PCT/US00/02014	:	
Int. Filing Date: 28 January 2000	:	UNDER
Priority Date: 29 January 1999	:	
Atty. Docket No.: 00931800229999	:	37 CFR 1.47
For: Method And System For Dynamic Config-	:	
uration Of Activators In A Client-Server...	:	

This is in response to the "Petition Under 37 CFR § 1.47(a)" filed on 15 April 2002.

BACKGROUND

This international application was filed on 28 January 2000, and claimed an earliest priority date of 29 January 1999. A Demand electing the United States was filed on 22 August 2000, which was prior to the elapse of 19 months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired as of midnight on 29 July 2001.

On 28 July 2001, applicants filed the basic national fee accompanied by, *inter alia*, a Transmittal Letter.

On 15 October 2001, a Notification of Missing Requirements was transmitted to applicants, requiring the submission of an oath or declaration of the inventors and a surcharge under 37 CFR 1.492(e).

Applicants filed the instant papers and surcharge under 37 CFR 1.492(e) on 15 April 2002.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Petitioner has satisfied requirements (1) and (3).

Regarding requirement (1), the petition authorizes the petition fee to be charged to counsel's Deposit Account No. 16-1150. Thus, requirement (1) has been satisfied.

Regarding requirement (2), the instant petition states that "IONA Technologies has made diligent efforts made to timely locate ALAN CLARKE, so that he could execute a Declaration as required. This effort has, however, been unsuccessful... The last address for ALAN CLARKE is as follows... however, this address is known to be incorrect since the last correspondence forwarded to this address was returned with the indication that there was no forwarding address." These statements are insufficient to establish within the meaning of 37 CFR 1.47(a) that Mr. Clarke "refuses to execute the application or cannot be reached after diligent effort." Specifically, petitioner has not clearly identified the date nor nature of the "last correspondence" forwarded to Mr. Clarke's last known address. Furthermore, petitioner has not specified whether the alleged "indication that there was no forwarding address" was an indication by the Irish postal service that there was no forwarding address for Mr. Clarke, as opposed to a statement by another entity or an indication not specifically pertinent to a forwarding address for Mr. Clarke. These defects are not cured by the "Affidavit" of Margaret O'Keefe, which merely states in conclusory fashion that "Attempts to contact Mr. Clarke from his last known address and telephone number have been unsuccessful" without illuminating the nature of the "attempts." Accordingly, requirement (2) has not been satisfied.

Regarding requirement (3), the "Response..." includes a statement of the last known address of non-signing joint inventor Alan Clarke.

Regarding requirement (4), the declaration is defective. Specifically, the declaration signed by Julie Salamone identifies a different residence, address and citizenship than the corresponding, incomplete information provided for her on the declaration signed by Kevin Sullivan. Meanwhile, the declaration signed by Ms. Salamone omits residence and address information for all of joint inventors Mr. Clarke, Mr. Kiely and Mr. Sullivan; also, along with the published international application, it identifies Mr. Clarke's Mr. Kiely's and Mr. Sullivan's citizenship as "United States" as opposed to "Ireland," as indicated on the other declarations of record. As such, it would be inappropriate to accept these declarations, and so requirement (4) has not been satisfied.

For the reasons discussed above, it not would be appropriate to grant the requested relief on the basis of the present record.


CONCLUSION

The petition is **DISMISSED**, without prejudice.

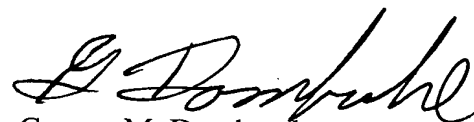
The \$130.00 petition fee is being charged to counsel's Deposit Account No. 16-1150.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, with the contents of the letter marked to the attention of the PCT Legal Office.



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